

## Attachment DR10-2

### Meeting Minutes

Date: June 20, 2006

Subject: Victorville 2 Hybrid Power Plant Agency Meeting

Attendees: Tonya Moore, CDFG  
Judy Hohman, USFWS  
Eileen Allen, CEC  
Tom Barnett, Inland Energy  
Tony Penna, Inland Energy  
Michael Gilmore, Inland Energy  
Kim McCormick, Attorney for Inland Energy  
Wes Speake, AMEC  
Tom Egan, AMEC  
Catrina Mangiardi, ENSR  
Arrie Bachrach, ENSR

Tom Barnett presented a Project Overview (attached) of the Victorville 2 Hybrid Power Plant Project. Wes Speake presented an overview of the biological issues associated with the Project (attached).

Judy Hohman asked whether the three segments of the transmission line route have been surveyed for species and species habitat. Tom Barnett and Wes Speake explained that all segments of the transmission line will be surveyed, and that Inland Energy is working to obtain current and historical survey data from Southern California Edison (SCE) for Segment 3 (Victor to Lugo). Judy stated that USFWS is concerned with direct, indirect and cumulative impacts to protected species and their habitat.

Judy and Eileen Allen inquired about the location of the water line bringing VVWRA reclaimed water to the Project and its proximity to riparian habitat potentially used by Southwestern Willow Flycatcher along the Mojave River. Tom Egan and Wes explained that the water line would be located along the mesa above the riparian habitat, on steep cliffs where no riparian habitat exists, and that the elevation of the cliffs in relation to the existing riparian habitat would prevent noise from being an issue for any bird species using the riparian habitat.

Tom Egan and Kim McCormick explained that permits would be necessary under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) to authorize incidental take of the federally and state listed desert tortoise and, potentially, the state listed Mohave ground squirrel. Kim explained that it is anticipated that EPA will act as lead agency under Section 7 of the ESA, as part of its PSD permit

process, and that federal take authorization would be obtained through the resulting Section 7 Biological Opinion. Judy agreed with this approach.

Tom Egan and Kim explained that incidental take authorization of state-listed species would be obtained under Section 2081 of the California Endangered Species Act (CESA). Eileen confirmed that the CEC will adopt the approach taken by CDFG with respect to take authorization for CESA protected species, and further stated that CEC will require an alternatives analysis in the AFC describing alternative locations (plant site and linear routes) and alternative technologies that were considered. Eileen also expressed satisfaction with the use of reclaimed water for the Project's water needs.

A discussion ensued regarding the status of Mohave ground squirrel (MGS) on the Project site and along the linear. Tom Egan explained that two of three trapping sessions required for a MGS protocol survey have been completed and that no MGS have been found on the Project site or linear. The third and final trapping session will be completed shortly. Tom Barnett inquired about whether the Project could assume absence of MGS in light of these survey results, and Tonya Moore explained that absence could be assumed for 12 months from the date of completion of the protocol survey, and that an additional protocol survey would have to be done every 12 months if the Project wanted to continue to assume absence in light of the presence of MGS habitat on the site and along the linear. Judy also informed the group that a petition has been submitted to USFWS to list MGS as a protected species under the federal ESA, and suggested that any Section 7 consultation on the Project may want to include an analysis of impacts to MGS, in the event MGS is federally listed in the future; including MGS in the current planned Section 7 process would shorten the amount of time necessary to add take authorization for MGS should it become federally listed.. Tonya also explained that by seeking take authorization for MGS, the Project would have approval of potential take for both construction and operation of the Project for the life of the Project.

Tom Barnett explained Inland Energy's concerns regarding mitigation ratio for purchase of compensation land, if MGS is assumed to be present notwithstanding the absence of any MGS in the trapping sessions. Tonya explained that historically a ratio of 1:1 has been applied in the Project area to compensate for impacts to MGS, but that this ratio could be higher for the Project based on the undeveloped character of the site. Mitigation ratios for MGS range from 1:1 to 3:1, according to Tonya. Tonya also stated that MGS were found on the nearby SCLA rail project site, although the siting was anecdotal rather than part of a protocol survey. Tonya further stated that she was meeting with other CDFG personnel in Sacramento next week to discuss generally the mitigation ratio for MGS, and agreed to speak with Tom Egan in two weeks regarding any new information on MGS mitigation ratios arising out of that meeting that might have an effect on the Project.

With respect to the mitigation ratio for desert tortoise, Tonya and Judy agreed that the ratio likely would be 1:1, with the scale of potential mitigation ratios ranging from 1:1 to 5.5:1. Tom Egan explained the formula used by the agencies to determine the mitigation ratio, which was developed by Tom when he was employed by BLM, and Tonya and

Judy agreed that under the formula, a mitigation ratio of 1:1 is likely for desert tortoise impacts. Tonya noted that CDFG is increasingly concerned with cumulative impacts on desert tortoise from all the development activities in the area, and that the Project is near (although not within) designated critical habitat for the desert tortoise. She said that a 2:1 ratio was used for a housing development in Victorville near the federal prison.

With respect to burrowing owls, Tonya stated that the mitigation ratio is 6.5 acres/burrow or nesting pair, and requested further information on the methods being proposed to relocate burrowing owls present on the Project site. Tonya also requested that surveys be done on all Project linears for burrowing owls. She noted that transmission right-of-ways (ROWs) are becoming more important habitat for burrowing owls because housing development in the surrounding areas is driving the burrowing owls into ROWs as the remaining relatively undeveloped habitat.

Tom Barnett and Tom Egan explained that the Project would be purchasing compensation lands with characteristics suitable for desert tortoise, MGS and burrowing owl, and Tonya and Judy confirmed that this approach would be acceptable to USFWS and CDFG. Two agency representatives agreed that if the same mitigation lands were proposed for two different species, the compensation ratios would not be additive, but that if the ratios were different between the two species, the higher ratio would apply. Tonya also noted that mitigation ratios would be higher if critical habitat for a species were affected, but that the higher ratio would apply only to the acreage of the affected critical habitat itself, not the entire Project area.

Tom Egan described drainages on the Project site that likely are jurisdictional under Section 404 of the Clean Water Act (CWA) and Section 1600 of the California Fish and Game Code, and explained that the Project anticipates obtaining authorizations from the U.S. Army Corps of Engineers (Corps) under a Section 404 Nationwide Permit, and from the California Department of Fish and Game under a Section 1600 Streambed Alteration Agreement. Tom Egan stated that the anticipated amount of jurisdictional drainage is less than ½ acre, and a formal wetland delineation is being conducted to determine the actual amount of jurisdictional area. Tonya confirmed that the mitigation for Section 1600 jurisdictional area will be 3:1, the same mitigation area required by the Corps under CWA Section 404. Tom Egan also advised that a CWA Section 401 water quality certification will be obtained from Lahontan RWQCB to satisfy Section 404 requirements. Tom Egan will follow up with Gerry Salas at the Corps on Corps jurisdiction issues and proposed process.

With respect to schedule, Tom Barnett explained that the Project intends to submit its AFC to the CEC in July 2006, with data adequacy achieved in September 2006 and a certificate to construct issued in October 2007. Eileen urged Inland Energy to submit the AFC as soon as practicable, and stated that the CEC will incorporate the CDFG and FWS permitting processes into its own permit process.

Following this discussion, the group toured the Project site. The meeting concluded at approximately 2 p.m.